

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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METTANIE TAPIA,

Plaintiff,

-against-

MEMORANDUM AND ORDER

Case No. 16-CV-5555 (FB) (SMG)

BE OPTICAL LLC, and ETHAN
FARAONOV,

Defendants.

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BLOCK, Senior District Judge:

Magistrate Judge Gold issued a Report and Recommendation (“R&R”) recommending that a default judgment be entered against Be Optical LLC and Ethan Faraonov, jointly and severally, in the total amount of \$ 39,493. The R&R advised that objections were due within 14 days and warned that “[f]ailure to file timely objections may waive the right to appeal the District Court’s order.” R&R 18. The R&R was served on both defendants at their last known address on February 15, 2018, making objections due by March 1, 2018. To date, no objections have been filed.

Where clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences,

failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision.""). The Court will, however, excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Since the R&R did not recommend an award of prejudgment interest, the amount of such interest need not be calculated. Accordingly, the Clerk shall enter judgment in accordance with the R&R.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
June 14, 2018